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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,760	08/14/2001	Scott E. Hrastar	191910-1111	9487

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EXAMINER
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SALCE, JASON P

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/929,760	<b>Applicant(s)</b> HRASTAR ET AL.	
	<b>Examiner</b> Jason P. Salce	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 2/6/2006 have been fully considered but they are not persuasive in overcoming the prior art rejection of record. However, Applicant argues that claim 47 fails to establish a prima facie case because of the typographical error made by the examiner stating, "*Referring to claim 47, see the rejection 47*". In view of the typographical error, it is argued that the current rejection should be made Non-Final. Although claim 47 is clearly analogous to claim 7, in view of the typographical error this Office Action is made Non-Final.

Applicant also discloses that the finding of inherency is improper, stating, "Applicants submit that, depending on the type of system, some may temporarily allow data delivery until authorization is complete". The examiner notes that the inherency statement made is in relation to the evidence provided by the references used in the rejection itself. The Applicant however, has provided no evidence that such an alternative system exists. Applicant's arguments are not evidence and the examiner notes that the Applicant must provide evidence that such an alternative system exists.

In response to Applicant's arguments, as stated before, Majeti is used to provide access to two communications paths that are accessed when the user requests information from a headend (which is authenticated upon request). Majeti clearly teaches at Column 6, Lines 15-20 that upon requesting access to a first communications path, authenticating the user, however, upon requesting access to a second communications path (by requesting a larger sized file), no authentication

information is used (except for the information containing the size of the file requested by the user). The examiner has previously not deemed the size information to be the traditionally known authentication information. Therefore, the examiner provided Goode, which teaches multiple levels of authentication information sent with the requests for information, thereby allowing the system of Majeti to access to a second communications path according to the authentication information (which specifies which level of authentication should be provided). Therefore, depending on the service requested in Majeti (a small or large file, e.g. picture or movie), Goode provides multiple types of authentication information, which provides access to a particular communications path that provides a particular service if the user is authenticated to do so.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Majeti et al. (U.S. Patent No. 5,534,913) in view of Kawashima (U.S. Patent No. 5,818,911) in further view of Goode et al. (U.S. Patent No. 6,163,272).

Referring to claim 1, Majeti discloses a cable data delivery network for delivering digital data to a host location upon a subscriber initiated request (see Figure 1 and

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Column 8, Lines 58-61), and an apparatus for authenticating that the subscriber is authorized to use said network (see Column 6, Lines 15-20).

Majeti also discloses a network manager (see element 18 in Figure 1) including at least one database of authorized users (see element 96 in Figure 2) and a validation agent (see element 48 in Figure 1).

Majeti also discloses logic to authorize the subscriber to access a first communications path by comparing first identification information with at least part of the at least one database (see Column 6, Lines 15-20 for the processor 48 conducting a login process using a database 96, which stores subscribers' information and authentication keys, and also note Column 8, Lines 58-67 and Column 9, Lines 1-6 for using such information to verify the communication path used to transmit data to the subscriber (element 10A in Figure 1), the first communications path providing at least a portion of connectivity between the host location and a head end of the cable data delivery network (see Column 9, Lines 10-36 for determining that the request will require access to only the PSTN network 24 for proper transmission to the subscriber). Therefore, the first communications path (PSTN 24) provides a portion of connectivity (link between subscriber and modems 54A-54N). Further note that Majeti further teaches using subscriber authentication information at Column 8, Lines 59-61.

Majeti also discloses logic to authorize the subscriber to access a second communication path responsive to the first communications path authorization (see Column 9, Lines 37-67 for the system allowing the user to transmit data requiring a higher bandwidth over the CATV network and again Column 8, Lines 58-67 and Column

9, Lines 1-6 for authorizing the subscriber to makes requests), by comparing second identification information with at least part of the at least one database (see Column 9, Lines 50-57 for comparing the request information to the information in the database to determine if the CATV will be used to transmit the requested data), the second communications path providing at least a portion of connectivity between the host location and the headend of the cable data delivery network (see Column 9, Lines 56-66 for transmitting the data from the headend 30N to the subscriber 20 in Figure 1).

Majeti fails to disclose that the modem(s) 54A-54N are located at the cable headend, therefore not disclosing the limitation "the first communications path providing at least a portion of connectivity between the host location and a headend of the cable data delivery network". Majeti only teaches a "Signal Channel Bridging Unit" 18 for communicating via PSTN and headends 30A-30N.

Kawashima discloses a single service-offering center 1, which discloses a system, which is similar to Majeti, in that Kawashima accepts request data from a third information network (which can be any type of distribution) and distributions the requested data over a first or second distribution network depending on the amount of data that needs to be transmitted. Kawashima specifically discloses at Column 9, Lines 19-67 and Column 10, Lines 1-10 that the third information network can be a PSTN (as also taught by Majeti) and that the first and second transmission networks can be a CATV network, therefore since all connections from all networks are coupled to a single service-offering center 1, Kawashima discloses a single headend for receiving and transmitting all requests.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to combine the split channel bridging unit 18 and headend(s) 30A-30N, as taught by Majeti, using a single service-offering center, as taught by Kawashima, for the purpose of providing data over a network that provides a high capacity of bandwidth than regular PSTN telephone lines can provide, therefore allowing a user to access data at a faster rate (see Column 1, Lines 31-35 and Lines 54-56 of Kawashima).

Majeti and Kawashima both fail to disclose second subscriber authentication information. In particular Majeti discloses transmitting second identification information to determine if the CATV path will be used to transmit the larger sized data, but no authentication takes process.

Goode discloses a multiple authentication level routine, which in a similar manner to Majeti and transmits a USERID code (in the form of a TID code) to a session manager to be authorized to receive a portion of connectivity (default level of access) to the information server (see Figure 1 and Column 6, Lines 13-21 and Lines 33-36). Goode also provides a second authentication process where the user, if not authorized to access a specific portion of connectivity (restricted movie), must provide subscriber authentication information in the form of a PIN in order to be authorized to used the second communications path (the path required to receive the movie) (see Column 6, Lines 45-56). The examiner notes that the limitation "communications path" is broad and can be interpreted as a separate communications link to the headend, or different channels provided on the same communications link.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the subscriber communications path authentication system, as taught by Majeti and Kawashima, using the personal identification authentication system with multiple authentication levels, as taught by Goode, for the purpose of managing personal identification numbers and customer authorization within an interactive information distribution system to provide flexible and useful security measures (see Column 1, Lines 51-55 of Goode)).

Claim 2 corresponds to claim 1, where Majeti discloses that the first identification information includes a USERID (see Column 8, Lines 59-61).

Claim 3 corresponds to claim 2, where Goode discloses a TID (USERID) and password (PIN) in the rejection of claim 1.

Referring to claim 4, see rejection of claims 2-3.

Referring to claim 5, see rejection of claims 1-4. Note again that Majeti provides the subscriber access to the first communications path by an authentication process using a USERID (with the password feature being an obvious variation (claim 3)). Also further note Goode authentication process in Figure 3.

Claim 6 corresponds to claim 5, where Majeti discloses that the host location includes a dial up device (element 76 in Figure 1) that further includes a cable data receiver for receiving said digital data (element 62 in Figure 1).

Claims 7-9 corresponds to claims 6-8, respectively, where Majeti discloses sending an user identification code (electronic identifying number) (from modem 76 in Figure 1) to the signal channel bridging unit 18, authorizing the code using a database



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and transmitting the requested data through the CATV network to subscriber 20 (see Column 6, Lines 15-20, Column 8, Lines 58-67 and Column 9, Lines 1-6).

Claim 10 corresponds to claim 1, where Majeti discloses that the first communications path is a PSTN link (see elements 22 and 24 in Figure 1).

Claim 11 corresponds to claim 1, where Majeti discloses that the first communications path is bi-directional (the examiner notes that a PSTN link is bi-directional).

Claim 12 corresponds to claim 1, where Majeti discloses that the second communications path is an RF cable link (see element 36 in Figure 1).

Claim 13 corresponds to claim 1, where Majeti discloses that the second communications path is uni-directional (see Column 2, Lines 50-52 for only transmitting information on the cable network on the downlink, not the uplink, therefore the second communications path (element 36 in Figure 1, is inherently "uni-directional")).

Referring to claims 14-20, see rejection of claims 1, 4, 7 and 10-13, respectively.

Referring to claim 21, see rejection of claim 1.

Referring to claim 22, the examiner notes that a CATV network (second level of service) contains a higher data rate than a PSTN network (first level of service). The examiner notes that the limitations of which level of service is the CATV network and the PSTN network is broad, and that either level of service (the first or the second) can be over the CATV network or the PSTN network.

Referring to claims 23-24, see rejection of claims 10 and 12, respectively.

Referring to claims 25-28, see rejection of claims 1, 22, 10 and 12, respectively.

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Referring to claims 29-32, see rejection of claims 1, 22, 10 and 12, respectively.

Referring to claim 33, Majeti discloses authorizing the user to make requests over the PSTN link (see Column 8, Lines 58-67 and Column 9, Lines 1-6). The examiner notes that if a user is not authorized to use the system, he/she will inherently not be permitted to access the system.

Referring to claim 34, Majeti discloses that the first identification information and the second identification information are of different types (note that the first identification information is the user logging into the system and the second identification information can be either of the requests cited at Column 9, Lines 10-50). The term "identification information" is broad and can be interpreted as either the user identification code, or the actual request made by the subscriber for information from service provider 10A in Figure 1. Further note that Goode also teaches using a TID and a PIN separately to obtain access to certain levels of service provided by the information server in Figure 1 and the rejection of claim 1.

Referring to claims 35-36, see rejection of claims 33-34, respectively.

Referring to claims 37-38, see rejection of claims 33-34, respectively.

Referring to claims 39-40, see rejection of claims 33-34, respectively.

Referring to claims 41-42, see rejection of claims 33-34, respectively.

Referring to claim 43, see rejection of claim 7.

Referring to claim 44, see rejection of claims 6 and 7.

Referring to claims 45 and 46, see rejection of claim 44.

Referring to claim 47, see rejection of claim 7.

**Conclusion**

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce  
Patent Examiner  
Art Unit 2623

A handwritten signature in black ink, appearing to read 'Jason Salce', written over the printed name and title.

April 17, 2006